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**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

STEVEN R. BERANEK, M.D.

**Physician's and Surgeon's
Certificate #GFE-66025**

Respondent.

File No: 16-2001-125166


DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby accepted and adopted as the Decision and Order by the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on June 11, 2002.

IT IS SO ORDERED June 4, 2002

MEDICAL BOARD OF CALIFORNIA


**Lorie Rice
Chair, Panel A
Division of Medical Quality**

BILL LOCKYER, Attorney General
of the State of California
JANE ZACK SIMON, State Bar No. 116564
Deputy Attorney General
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5544
Facsimile: (415) 703-5480

Attorneys for Complainant

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No.16-2001-125166

STEVEN R. BERANEK, M.D.
406 Cedar Drive
Enterprise, AL 36330-1250

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

Physician and Surgeon's
Certificate No. GFE 66025

Respondent.

IT IS HEREBY STIPULATED that:

PARTIES

1. Ron Joseph (Complainant) is the Executive Director of the Medical Board of California. (the "Board") He brought this action solely in his official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Jane Zack Simon, Deputy Attorney General.

2. Steven R. Beranek, M.D. (Respondent) is a physician licensed in California but residing and practicing in Alabama. He is represented in this proceeding by attorney John E. Dittoe of the law firm of Crosby, Heafey, Roach & May, Professional Corporation, 1999 Harrison Street, Oakland, CA 94612.

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1 3. On or about June 19, 1989, the Board issued a physician's and surgeon's
2 license to Respondent while he was serving his residency in a California military hospital. In
3 September, 1990, Respondent's license was placed in Military Exempt Status, with a license
4 number of GFE 66025. Said license has remained in Military Exempt Status since that time.
5 Respondent's California license expired on September 30, 1998.

6 4. Respondent has received and read the Accusation which is presently on
7 file and pending in case number 16-2001-125166 before the Board, a copy of which is attached
8 as Exhibit A.

9 5. Respondent has carefully read, fully discussed with counsel, and
10 understands the charges and allegations in Accusation No. 16-2001-125166. Respondent also
11 has carefully read, fully discussed with counsel, and understands the effects of this Stipulated
12 Surrender of License and Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the
14 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
15 counsel, at his own expense; the right to confront and cross-examine the witnesses against him;
16 the right to present evidence and to testify on his own behalf; the right to the issuance of
17 subpoenas to compel the attendance of witnesses and the production of documents; the right to
18 reconsideration and court review of an adverse decision; and all other rights accorded by the
19 California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
21 each and every right set forth above.

22 8. Respondent has not practiced medicine in California since his residency in
23 1989-1991. Respondent has practiced medicine in the State of Alabama since 1993. He has no
24 intention of returning to California to practice medicine in the near future. Accusation No. 16-
25 2001-125166 was filed by the Board based on a reprimand against Respondent's Alabama
26 license issued by the Medical Licensure Commission of Alabama in August, 2001. Based
27 exclusively upon the action taken by the Medical Licensure Commission of the Alabama,
28 Respondent agrees that cause exists to discipline his California physician and surgeon's

1 certificate pursuant to Business and Professions Code sections 141 and 2305, and hereby
2 surrenders his license for the Board's formal acceptance.

3 9. Respondent understands that by signing this stipulation he is enabling the
4 Board to issue its order accepting the surrender of license without further process. He
5 understands and agrees that Board staff and counsel for Complainant may communicate directly
6 with the Board regarding this stipulation, without notice to or participation by Respondent. In
7 the event that this stipulation is rejected for any reason by the Board, it will be of no force or
8 effect for either party. The Board will not be disqualified from further action in this matter by
9 virtue of its consideration of this stipulation.

10 10. Upon acceptance of this stipulation by the Board, Respondent understands
11 that he will no longer be permitted to practice as a physician and surgeon in California, unless
12 and until the Board grants a petition for reinstatement. Respondent also agrees to surrender and
13 cause to be delivered to the Board both his license and wallet certificate before the effective date
14 of the decision.

15 11. Any admission made by Respondent herein is only for the purposes of this
16 proceeding, or any other proceedings in which the Board or other professional licensing agency
17 is involved, and shall not be admissible in any other criminal or civil proceeding.

18 12. Respondent fully understands and agrees that if he ever files an application
19 for relicensure or reinstatement in the State of California, the Board shall treat it as a petition for
20 reinstatement, and Respondent must comply with all laws, regulations and procedures for
21 reinstatement of a revoked license in effect at the time the petition is filed.

22 13. Respondent understands that he may not petition for reinstatement as a
23 physician and surgeon for a period of three (3) years from the effective date of his surrender.
24 Information gathered in connection with Accusation number 16-2001-125166 may be considered
25 by the Division of Medical Quality in determining whether or not to grant the petition for
26 reinstatement. For the purposes of the reinstatement hearing, the allegations in Accusation
27 number 16-2001-125166 shall be deemed to be admitted by Respondent, and Respondent waives
28 any and all defenses based on a claim of laches or the statute of limitations.

Apr-30-02 12:42P
[Jack Dittoe - beranek_surrender.wpdP.05
Page 4ACCEPTANCE

I have carefully read the above stipulation and enter into it freely and voluntarily and with full knowledge of its force and effect, do hereby surrender my Physician and Surgeon's Certificate Number GFE 660259, to the Division of Medical Quality, Medical Board of California, for its formal acceptance. By signing this stipulation to surrender my license, I recognize that upon its formal acceptance by the Board, I will lose all rights and privileges to practice as a physician and surgeon in the State of California and I also will cause to be delivered to the Board both my license and wallet certificate before the effective date of the decision.

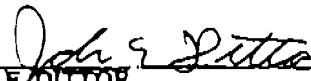
DATED: 4/30/2002


STEVEN R. BERANEK, M.D.
Respondent

I have read and fully discussed with Respondent Steven R. Beranek, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 4/30/02

CROSBY, HEAFY, ROACH & MAY
Professional Corporation


JOHN E. DITTOE
Attorneys for Respondent.


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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Division of Medical Quality, Medical Board of California.

DATED: 5/16/02

BILL LOCKYER, Attorney General
of the State of California



JANE ZACK SIMON
Deputy Attorney General
Attorneys for Complainant

EXHIBIT A

**Stipulated Surrender of License and Order
Case No. 16-2001-125166**

1 BILL LOCKYER, Attorney General
of the State of California
2 JANE ZACK SIMON
Deputy Attorney General [SBN 116564]
3 455 Golden Gate Avenue, Suite 11000
San Francisco, California 94102
4 Telephone: (415) 703-5544
Facsimile: (415) 703-5480
5 Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO December 13, 20 01
BY Valerie McCaig ANALYST

6
7 **BEFORE THE**
8 **DIVISION OF MEDICAL QUALITY**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:)

Case No. 16-2001-125166

12 **STEVEN R. BERANEK, M.D.**)
106 Edinburg Drive)
13 Enterprise, AL 36330-4128)

ACCUSATION

14)
15 Physician and Surgeon's)
Certificate No. GFE 66025,)
16)
Respondent.)

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19 The Complainant alleges:

20 **PARTIES**

21 1. Complainant, Ronald Joseph, is the Executive Director of the Medical
22 Board of California (hereinafter the "Board") and brings this accusation solely in his official
23 capacity.

24 2. On or about June 19, 1989, Physician and Surgeon's Certificate No.
25 G 66025 was issued by the Board to Steven R. Beranek, M.D. (hereinafter "respondent"). Said
26 certificate is in MILITARY EXEMPT STATUS, with a new license number of GFE 66025. The
27 certificate is delinquent with an expiration date of September 30, 1998.

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1 pertinent part that upon written notice of the Medical Board of California a physician and
2 surgeon's medical license has been placed on probation as a result of a disciplinary action,
3 no Medi-Cal claim for the type of surgical service or invasive procedure giving rise to the
4 probationary order and performed on or after the effective date of said probationary order
5 or during the period of probation shall be reimbursed, except upon a prior determination
6 that compelling circumstances warrant the continuance of reimbursement during the
7 probationary period for procedures other than those giving rise to the probationary order.

8 4. Respondent is subject to discipline within the meaning of section 141 and is
9 guilty of unprofessional conduct within the meaning of section 2305 as more particularly set
10 forth herein below.

11 **FIRST CAUSE FOR DISCIPLINE**

12 (Discipline, Restriction, or Limitation Imposed By Another State)

13 5. On or about August 22, 2001, the Medical Licensure Commission of
14 Alabama issued a Stipulation and Consent Order reprimanding respondent's Alabama license.
15 The Alabama Commission found that respondent's hospital privileges had been removed as a
16 result of unprofessional or unethical conduct and in violation of Alabama statutes. The
17 allegations underlying this finding were that respondent had inappropriately touched a female
18 employee.

19 Attached as Exhibit A is a true and correct copy of the Stipulation and Order and
20 Administrative Complaint of the Medical Licensure Commission of Alabama in Case No. 01-
21 009.

22 6. The discipline imposed by the Alabama Commission constitutes a violation of
23 section 141 and unprofessional conduct within the meaning of Code section 2305.

24 **PRAYER**

25 **WHEREFORE**, the complainant requests that a hearing be held on the matters
26 herein alleged, and that following the hearing, the Division issue a decision:

27 1. Revoking or suspending Physician and Surgeon's Certificate Number

1 GFE 66025 heretofore issued to respondent Steven R. Beranek, M.D.;

2 2. Revoking, suspending or denying approval of the respondent's authority to
3 supervise physician assistants, pursuant to Code section 3527;

4 3. Ordering respondent to pay the Division the actual and reasonable costs of
5 the investigation and enforcement of this case and to pay the costs of probation monitoring upon
6 order of the Division; and

7 4. Taking such other and further action as the Division deems necessary and
8 proper.

9 DATED: December 13, 2001.

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12 **RONALD JOSEPH**
13 Executive Director
14 Medical Board of California
15 Department of Consumer Affairs
16 State of California

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27
Complainant

Exhibit A

ALABAMA STATE BOARD OF
MEDICAL EXAMINERS,

Complainant,

v.

STEVEN RAY BERANEK, M.D.

Respondent.

BEFORE THE MEDICAL LICENSURE
COMMISSION OF ALABAMA

CASE NO. 01-009

STIPULATION AND CONSENT ORDER

Comes now the Complainant, Alabama State Board of Medical Examiners and the Respondent Steven R. Beranek, M.D. and jointly submit the following Stipulation and Consent Order:


1. Respondent admits the allegation contained in paragraph 3 of the Administrative Complaint concerning termination of medical staff membership and clinical privileges at Medical Center Enterprise, Enterprise, Alabama.

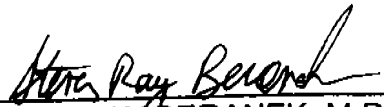

2. Respondent acknowledges the jurisdiction of the Medical Licensure Commission and consents to the entry of the Consent Order contained herein. Upon entry of the Consent Order, Respondent waives his right to further adjudication of the remaining allegations in the Administrative Complaint, which shall be deemed dismissed, and to an administrative hearing before the Medical Licensure Commission on such allegations, his right to be represented at such hearing by counsel of his choice, and hereby waives any and all rights of formal adjudication of the charges stated in the Administrative Complaint. Respondent understands and acknowledges that this Stipulation and Consent Order, if approved and executed by the Medical Licensure Commission, shall constitute a public

record of the State of Alabama.

3. The Complainant, Alabama State Board of Medical Examiners stipulates and agrees that the terms and conditions of the Consent Order stated herein constitute a reasonable disposition of all charges contained in the Administrative Complaint and that such disposition adequately protects the public health and safety.

4. It is stipulated and agreed between the parties that this Stipulation and Consent Order be submitted to the Medical Licensure Commission and is subject to the Commission's approval. It is further agreed by Respondent that the Medical Licensure Commission shall be permitted to examine and review, prior to its approval of this Stipulation and Consent Order, the records and documents now in the possession of the Board of Medical Examiners concerning the allegations in the Administrative Complaint and the stipulation of facts set forth herein. It is further agreed by Respondent that, in the event the Medical Licensure Commission shall decline to accept the Stipulation and Consent Order as a basis for the disposition of the alleged grounds for imposition of disciplinary sanctions and require the Board of Medical Examiners to present testimony and documentary exhibits at a subsequent hearing, any admissions made by Respondent, and the consideration by the Commission of the Stipulation and Consent Order and the documentary evidence referred to above shall not be considered prejudicial to the rights of Respondent to receive a fair and impartial hearing.


WENDELL R. MORGAN
Attorney for the Alabama Board of
Medical Examiners


STEVEN RAY BERANEK, M.D.
Respondent

ROBERT F. NORTHCUTT, Esquire
Attorney for the Respondent

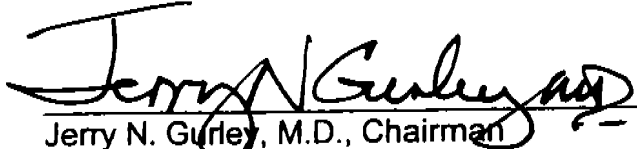
CONSENT ORDER

This matter is before the Medical Licensure Commission of Alabama on a signed Stipulation entered into by the Complainant, Alabama State Board of Medical Examiners and the Respondent, Steven Ray Beranek, M.D. and on a proposed Consent Order submitted by the parties. Based upon the Stipulation of the parties, the Commission finds that the Respondent's hospital medical staff privileges at Medical Center Enterprise, Enterprise, Alabama were terminated on October 29, 2000. Based upon the foregoing finding of fact, the Commission concludes that the Respondent's conduct constitutes a violation of Ala. Code §34-24-360(18) (1975).

Based upon the foregoing finding of fact and conclusion of law, it is the ORDER of the Medical Licensure Commission that the license of the Respondent be and the same is hereby REPRIMANDED.

It is the further ORDER of the Commission the Respondent shall pay an administrative fine in the amount of \$2,500.00 payable by certified check to the Alabama Board of Medical Examiners no later than thirty days from the effective date of this Consent Order.

ORDERED this 22ND day of August, 2001.


Jerry N. Gurley, M.D., Chairman
Medical Licensure Commission of Alabama

**BEFORE THE MEDICAL LICENSURE
COMMISSION OF ALABAMA**

CASE NO. 01-009

VS.

Respondent.

Respondent's medical staff membership and clinical privileges at Medical Center Enterprise, Enterprise, Alabama were terminated by an Order of the Advisory Board of Medical Center Enterprise based upon a finding that the Respondent's conduct at the hospital was: (a) unprofessional and unethical, (b) inconsistent with the professional standards and aims of the medical staff of the hospital, (c) disruptive to hospital operations, and (d) injurious to the nursing staff of the hospital. A copy of the final order of the Advisory Board of the Medical Center Enterprise dated October 29, 2000 is attached to this Administrative Complaint and incorporated herein as Exhibit A.

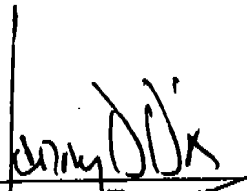
4. In support of the allegation of the violation of §34-24-360(2), the Board of Medical Examiners' alleges that on or about January 8, 2000, the Respondent committed an act of unprofessional conduct by touching a female employee of the hospital in an inappropriate manner in the presence of one or more other hospital employees which conduct resulted in the filing of a complaint against the Respondent with the Hospital Administration.

WHEREFORE, the foregoing premises considered, the Alabama State Board of Medical Examiners respectfully requests that the Medical Licensure Commission of Alabama take jurisdiction of this Administrative Complaint, set a hearing and order that the Respondent, Steven Ray Beranek, M. D., appear and answer the allegations contained in this Administrative Complaint in accordance with the Rules and Regulations of the Medical Licensure Commission. Further, the Board requests that, at the conclusion of the hearing, the Medical Licensure Commission revoke or suspend the license to practice medicine in Alabama of Dr. Beranek, assess an administrative fine against Dr. Beranek

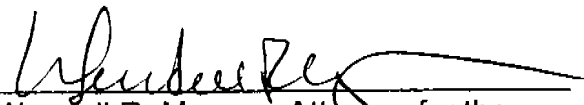
as authorized by Ala. Code §34-24-381(1975), and/or take any other action which the Commission deems appropriate based upon the evidence presented for consideration.

This Administrative Complaint is executed for and on behalf of the Alabama State Board of Medical Examiners by its Executive Director pursuant to the instructions of the Board contained in its Resolution adopted on April 18, 2001, a copy of which is attached hereto and incorporated herein.

EXECUTED this the 23rd day of April, 2001.




Larry D. Dixon, Executive Director
Alabama Board of Medical Examiners



Wendell R. Morgan, Attorney for the
Alabama Board of Medical Examiners
P. O. Box 946
Montgomery, AL 36101-0946
Telephone # (334) 242-4739
Facsimile # (334) 242-4155

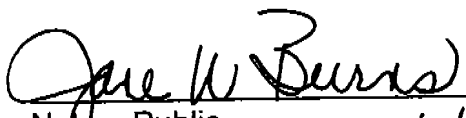
STATE OF ALABAMA)
)
MONTGOMERY COUNTY)

Before me, the undersigned, personally appeared Larry D. Dixon, who, being by me first duly sworn, deposes and says that he, in his capacity as Executive Director of the Alabama Board of Medical Examiners, has examined the contents of the foregoing complaint and petition and affirms that the contents thereof are true and correct to the best of his knowledge, information and belief.



Larry D. Dixon, Executive Director
Alabama Board of Medical Examiners

SWORN TO AND SUBSCRIBED before me this the 23rd day of April,
2001.



Notary Public
My commission expires: 5/3/03

STATE OF ALABAMA

MONTGOMERY COUNTY

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AFFIDAVIT

Before me, the undersigned, personally appeared Larry D. Dixon, Executive Director of the Alabama State Board of Medical Examiners, who, being by me first duly sworn, deposes and says as follows:

The Alabama State Board of Medical Examiners session on April 18, 2001, a quorum of the members of the Board being present, conducted an investigation in to the medical practice of Steven Ray Beranek, M. D. At the conclusion of the discussion, the Board adopted the following resolution:

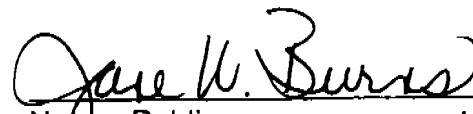
STEVEN RAY BERANEK, M.D.: After consideration of a legal review report, the Credentials Committee recommended filing an Administrative Complaint with the Medical Licensure Commission based upon the grounds of termination of hospital staff privileges and unprofessional conduct. The motion was adopted.

I further certify that the foregoing resolution was adopted by the Alabama State Board of Medical Examiners on the 18th day of April, 2001.



Larry D. Dixon, Executive Director
Alabama Board of Medical Examiners

SWORN TO AND SUBSCRIBED before me this the 23rd day of April, 2001.



Notary Public
My commission expires: 5/3/03

**BEFORE THE ADVISORY BOARD
OF MEDICAL CENTER ENTERPRISE**

**IN THE MATTER OF:
STEVEN R. BERANEK, M.D.**

FINAL ORDER OF THE ADVISORY BOARD

Pursuant to Article VIII, Section 8 of the Medical Staff Bylaws of Medical Center Enterprise ("Medical Staff Bylaws"), this matter was presented at a special meeting of the Advisory Board of Medical Center Enterprise ("Advisory Board"). The Advisory Board has carefully considered the record in this matter and the prior decisions by the Executive Committee of the medical staff ("Executive Committee"), the Ad Hoc Review Committee, and the Advisory Board Appellate Review Committee ("Advisory Board Committee") to recommend termination of Dr. Steven R. Beranek's medical staff appointment and clinical privileges at Medical Center Enterprise ("Hospital").

After a review of the record, the Advisory Board finds as follows:

I. Procedural History

1. On October 29, 1999, Sherry Wise, R.N., a Hospital employee, filed a written statement with the Hospital alleging that on October 28, 1999, Dr. Beranek touched her left breast without consent. By letter dated November 1, 1999, Ms. Barbara Hilb, the Chief Operating Officer of the Hospital, in accordance with Article VII, Section 1(A) of the Medical Staff Bylaws, requested that Dr. Joseph W. Herod, Chairman of the Executive Committee, begin an investigation into Ms. Wise's allegations. Dr. Beranek was informed of the investigation by letter dated November 1, 1999. Thereafter, the Executive Committee met on November 3, 5, 8, and 10, 1999, to discuss the statement filed by Ms. Wise and the findings of its investigation. By letter dated November 10, 1999, Dr. Beranek was informed of these findings:

In accordance with Article VII, Section 1, Paragraph F, the investigating committee finds that there is a reasonable basis to conclude that the allegations of inappropriate sexual contact initiated by Steven R. Beranek, M.D. upon Medical Center Enterprise employee (Sherry Wise, R.N.) are supported. The committee also finds there is reasonable reason to believe that there is a related pattern of inappropriate sexual conduct for which Steven Beranek, M.D. has previously been verbally warned. In so finding, the committee has concluded that inappropriate sexual conduct has existed in the past to include alleged improper conduct during Dr. Beranek's training/residency.

2. The Executive Committee then issued the following recommendations, which were subsequently adopted by the Advisory Board:

- (a) Steven Beranek, M.D., should be required to strictly adhere to the recommendations for behavior modification, counseling/monitoring to be imposed by the Physicians Recovery Network. The investigating committee recommends summary suspension to be initiated for failure to comply.
- (b) Steven Beranek, M.D., should be required to disclose to the Executive/Credentials Committee the actions taken and the nature of the progressive steps and recommendations imposed by the Physicians Recovery Network. A regular update to the Executive Committee of progress achieved is required to ensure an environment free of inappropriate sexual contact/harassment by Steven Beranek, M.D. Dr. Beranek shall sign appropriate releases and authorizations with the Physicians Recovery Network to allow the Executive Committee to monitor and review routine status reports.
- (c) Any subsequent action by Steven Beranek, M.D., regarding inappropriate sexual contact/harassment, upon confirmation, should result in immediate summary suspension.
- (d) Any information related to conduct by Steven Beranek, M.D. of a similar nature that requires the investigating committee or the Executive/Credential Committee's further attention related to this matter shall, by necessity, cause a new investigation with complete disclosure of the matters identified during this investigation. This report and any supporting information will be made available for consideration.
- (e) Failure of Steven R. Beranek, M.D., to complete the requirements of the Physicians Recovery Network or to comply with the recommendations stated above would warrant, in the investigating committee's opinion, the need for summary suspension while proceeding with revocation of privileges. This action should be taken to ensure that the inappropriate conduct will cease.

3. The Executive Committee met on November 30, 1999, and on December 28, 1999, to review Dr. Beranek's compliance with its previously issued recommendations. During that time period, Dr. Beranek underwent a three (3) day psychiatric evaluation at the Menninger Clinic, Topeka, Kansas. Based on: (i) the recommendations from Dr. Glen O. Gabbard at the Menninger Clinic, who diagnosed Dr. Beranek with a narcissistic personality disorder, but concluded that Dr. Beranek did not need monitoring through the Alabama Physicians Recovery Network since patient care was not in issue, (ii) the written and verbal assurances provided by Dr. Beranek to the Executive Committee that his past conduct would not be repeated, and (iii) with the understanding that Dr. Beranek would immediately begin private therapy and counseling, Dr. Beranek was allowed to continue his practice at the Hospital.

4. On January 9, 2000, Shannon James, O.R.T., a Hospital employee, filed a written statement with the Hospital alleging that on January 8, 2000, Dr. Beranek grabbed her buttocks without consent. By letter dated January 10, 2000, Ms. Barbara Hilb, in accordance with Article VII, Section 1(A) of the Medical Staff Bylaws, requested that Dr. Gilbert L. McDonough, the new Chairman of the Executive Committee, begin an investigation into Ms. James' allegations. Dr. Beranek was informed of the investigation by letter dated January 11, 2000.

5. On January 12, 2000, Dr. Beranek requested a medical leave of absence from the Hospital. The leave was granted and by letter dated January 25, 2000, the Executive Committee informed Dr. Beranek that "the Medical Staff Bylaws allow the Executive Committee to review your privileges and health status prior to reinstatement and also allows for modification of your membership and privileges as appropriate. As discussed with you on January 12, 2000, you must be able to demonstrate to the Executive committee that you have taken the necessary steps to ensure that your prior conduct will not be repeated." In a separate letter, Dr. Beranek acknowledged and accepted these conditions.

6. Following the incident with Ms. James, the Executive Committee formally met nine (9) times, received information from Dr. Beranek, both orally and in writing, retained an independent psychiatrist to review Dr. Beranek's misconduct and treatment, retained an investigator to help determine whether the recent allegations levied against Dr. Beranek represented isolated incidences or was a manifestation of a larger, long-standing problem, and thoroughly reviewed, among other items, the following information and documents:

- (a) A written incident report filed by Sherry Wise, R.N., which states that on October 28, 1999, Dr. Beranek touched Ms. Wise's left breast without consent,
- (b) A written incident report filed by Shannon James, O.R.T., which states that on January 8, 2000, Dr. Beranek touched Ms. James' buttocks without consent,
- (c) Several written statements by eye witnesses which corroborate the allegations by Ms. Wise and Ms. James,
- (d) Dr. Beranek's most recent "Application for Medical Staff Appointment and Clinical Privileges", wherein Dr. Beranek indicates that he was never suspended during his residency, and a "Clinical Reference Questionnaire" completed by Dr. Beranek's residency director, which indicates that in 1992 Dr. Beranek was suspended during his residency for sexual harassment,
- (e) Past Executive Committee Minutes and other information that indicates in 1998 Dr. Beranek was verbally warned by Hospital administration about his inappropriate sexual conduct with nurses at the Hospital,
- (f) A November 1999 written statement submitted by Dr. Beranek in response to the allegations of Ms. Wise and the Executive Committee's investigation,
- (g) April 2000 written statements submitted by Dr. Beranek in response to the allegations of Ms. James and the Executive Committee's investigation,
- (h) Written statements by Dr. Beranek submitted in response to questions asked by the Executive Committee,

- (i) A "Consultation Report" and "Psychological Test Report" prepared during Dr. Beranek's three (3) day evaluation at the Menninger Clinic, Topeka, Kansas.
- (j) Progress reports beginning January 25, 2000, and numerous letters submitted by Dr. Karl Kirkland, Dr. Beranek's treating psychologist.
- (k) Two letters submitted by Dr. Glen O. Gabbard of the Menninger Clinic regarding Dr. Beranek's psychiatric diagnosis of a narcissistic personality disorder and his need for long-term dynamic psychotherapy.
- (l) Information regarding Dr. Beranek's participation in the "Maintaining Proper Boundaries" course offered at Vanderbilt University.
- (m) Information from Dr. Charles Herlihy, a board certified psychiatrist with over forty (40) years of experience, who was retained by the Executive Committee to evaluate Dr. Beranek's psychiatric diagnosis and treatment. Following his evaluation and review of pertinent information, Dr. Herlihy informed the Executive Committee that if Dr. Beranek is placed back on the Hospital's medical staff there is a significant risk that he will continue to exhibit inappropriate sexual behavior toward nurses.
- (n) An Investigators Report, which indicates that fourteen (14) individuals, in addition to Ms. Wise and Ms. James, have either witnessed or been the subject of inappropriate sexual conduct by Dr. Beranek.
- (o) Written notes and a complaint filed with the Equal Employment Opportunity Commission ("EEOC") by Ms. Cassandra Sarlis, a former employee of Dr. Beranek, which chronicle in her own words the inappropriate sexual conduct by Dr. Beranek. A hand-written note by Dr. Beranek regarding his conduct toward Ms. Sarlis, and
- (p) Written notes by Ms. Rebecca White, a former Hospital employee, which chronicle in her own words the inappropriate sexual conduct by Dr. Beranek.

7. Following the completion of its investigation, on June 12, 2000, the Executive Committee concluded that Dr. Beranek's past conduct was: (i) unprofessional and unethical, (ii) inconsistent with the professional standards and aims of the Medical Staff of the Hospital, (iii) disruptive to Hospital operations, and (iv) injurious to the nursing staff of the Hospital. The Executive Committee also concluded that Dr. Beranek did not cooperate fully and was not candid with the Executive Committee's investigation, that the effectiveness of his therapy with Dr. Kirkland was suspect, and that there was a significant risk that his inappropriate sexual conduct would continue if returned to practice at the Hospital. Consequently, in accordance with Article VII of the Medical Staff Bylaws, the Executive Committee recommended that Dr. Beranek's medical staff membership and clinical privileges at the Hospital be terminated.

8. In accordance with the Medical Staff Bylaws and the Health Care Quality Improvement Act of 1986 ("HCQIA"), Dr. Beranek was notified by letter dated June 15, 2000, of the Executive Committee's adverse recommendation. In this letter, Dr. Beranek was apprised: (i) that an adverse action was recommended by the Executive Committee, (ii) of the reasons for the proposed adverse recommendation, (iii) that Dr. Beranek had the right to request a hearing on the proposed adverse recommendation within thirty (30) days following his receipt of the letter, and (iv) his rights at the hearing, which included his right to be represented by an attorney or other person of his choice, to

have a record made of the proceedings and to request copies of the record, to call, examine and cross-examine witnesses, to present evidence determined to be relevant by the Chairman of the Ad Hoc Review Committee, and to submit a written statement prior to, during or at the close of the hearing. By letter dated June 21, 2000, Dr. Beranek requested a hearing to challenge the adverse recommendation of the Executive Committee. In accordance with the Medical Staff Bylaws and HCQIA, by letter dated June 28, 2000, Dr. Beranek was notified of: (i) the dates for the hearing, which were not less than thirty (30) days after the date of the notice setting the hearing, (ii) the names of the members of the Ad Hoc Review Committee, and (iii) the names of the witnesses expected to be called by the Executive Committee to testify at the hearing, along with a short summary of each witnesses' anticipated testimony.

9. Pursuant to Article VIII, Section 5 of the Medical Staff Bylaws, and without objection from the parties, Dr. Paul Anderson, Dr. William Reynolds and Dr. Steven Presley were appointed to the Ad Hoc Review Committee, and Dr. Anderson served as Chairman. Prior to the hearing, the Executive Committee provided Dr. Beranek with copies of all relevant written statements filed by nurses at the Hospital, Dr. Herlihy's resume, and a copy of the Investigator's Report prepared at the request of the Executive Committee. On July 26, 2000, the parties took the deposition of Dr. Herlihy.

10. On the evenings of August 7, 8 and 9, 2000, a hearing was held, during which time the Executive Committee presented eight (8) witnesses and introduced sixty-five (65) documents plus Dr. Herlihy's deposition into evidence in support of its adverse recommendation. Dr. Beranek presented two (2) witnesses and introduced nine (9) documents into evidence in opposition to the Executive Committee's recommendation. Dr. Beranek did not testify, but rather presented a prepared statement.

11. At the conclusion of the hearing, the Ad Hoc Review Committee affirmed the Executive Committee's June 12, 2000 adverse recommendation and issued the following findings:

- (a) That the hearing proceedings were properly conducted pursuant to Article VIII of the Medical Staff Bylaws and HCQIA.
- (b) That at the hearing, the Executive Committee presented appropriate and sufficient evidence in support of its June 12, 2000, recommendation to terminate Dr. Beranek's medical staff membership and clinical privileges at Medical Center Enterprise.
- (c) That the evidence and testimony presented at the hearing supports the findings by the Executive Committee that Dr. Beranek's conduct was unprofessional and unethical; inconsistent with the professional standards of the Medical Staff of the Hospital; disruptive to Hospital operations; and injurious to the nursing staff of the Hospital. The evidence and testimony presented at the hearing further supports the findings by the Executive Committee that Dr. Beranek did not cooperate fully and was not honest

with the Executive Committee's investigation and that Dr. Beranek's therapy is far from complete.

- (d) That Dr. Beranek failed to support his challenge to the Executive Committee's adverse recommendation by an appropriate showing that the recommendation lacked any factual basis or that such basis was arbitrary, unreasonable or capricious.
- (e) That the action taken by the Executive Committee was appropriate.

12. On September 7, 2000, Ms. Barbara Hilb notified Dr. McDonough, Chairman of the Executive Committee, and Dr. Beranek of the decision of the Ad Hoc Review Committee. Pursuant to the Medical Staff Bylaws, the Executive Committee held a meeting on September 18, 2000, to consider the Ad Hoc Review Committee's findings. Thereafter, the Executive Committee reaffirmed its recommendation to terminate Dr. Beranek's medical staff membership and clinical privileges at the Hospital.

13. By letter dated September 18, 2000, Mr. Keith Granger, Chief Executive Officer of the Hospital, advised Dr. Beranek of the Executive Committee's second adverse recommendation and informed Dr. Beranek that he had the right, pursuant to the Medical Staff Bylaws, to appeal the recommendation within ten (10) days. On September 25, 2000, Dr. Beranek, through legal counsel, requested appellate review by the Advisory Board, or a committee thereof.

14. By letter dated September 29, 2000, Mr. Granger advised Dr. Beranek that the appellate review hearing would be held on October 25, 2000, before an Advisory Board Committee comprised of Dr. Gary Allen, Dr. Nicholas Barreca and Dr. Roger Williams. Additionally, this correspondence advised that the parties had the right to submit written statements in support of and/or against the adverse recommendation of the Executive Committee. Dr. Beranek did not object to the composition of the Advisory Board Committee.

15. By letter dated October 3, 2000, Dr. Beranek wrote the Advisory Board Committee and suggested that he be returned to the Medical Staff effective January 1, 2001, with the following self-imposed conditions: (i) that Dr. Beranek obtain a chaperon to accompany him while in the Hospital, and (ii) that Dr. Beranek continue in therapy until January 1, 2003. In this letter, Dr. Beranek also states "I have received the conclusion of the hearing committee and I acknowledge that my behavior was inconsistent with the professional standards of the Medical Staff at MCE. I admit that the behavior may have been disruptive to some of the nursing personnel at the hospital, and that it may have created a hostile work environment. I have no excuse for that behavior, and again, I am sincerely very sorry."

16. On October 13, 2000, the Executive Committee, through legal counsel, filed with the Advisory Board Committee a position statement in support of its recommendation to terminate Dr. Beranek's medical staff membership and clinical privileges at the Hospital. On October 19, 2000, Dr. Beranek, through legal counsel, filed with the Advisory Board Committee a position statement in

opposition to the Executive Committee's adverse recommendation and in support of his continued appointment to the medical staff of the Hospital.

17. On October 25, 2000, the Advisory Board Committee affirmed the adverse recommendation of the Executive Committee.

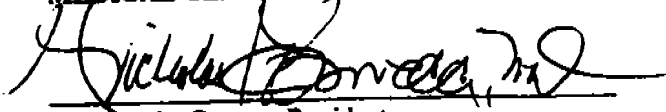
II. Findings

After a review of the record in this matter, the Advisory Board finds as follows:

1. Dr. Beranek was properly apprised of the Executive Committee's adverse recommendation and the basis for such recommendation. Dr. Beranek was also given an opportunity to present written evidence and oral testimony to refute the adverse recommendation and Dr. Beranek, through counsel, participated fully in the hearing before the Ad Hoc Review Committee.
2. The evidence indicates that Dr. Beranek's conduct at the Hospital: (i) was unprofessional and unethical, (ii) inconsistent with the professional standards and aims of the Medical Staff of the Hospital, (iii) disruptive to Hospital operations, and (iv) injurious to the nursing staff of the Hospital.
3. The evidence indicates that Dr. Beranek did not cooperate fully and was not candid with the Executive Committee's investigation, that the efficacy of Dr. Beranek's therapy is doubtful, and that Dr. Beranek's inappropriate sexual conduct is likely to continue if he is returned to practice at the Hospital.
4. The Executive Committee, in issuing its adverse recommendation, was acting in furtherance of quality health care after a reasonable effort to obtain the facts of the matter.
5. The adverse recommendation of the Executive Committee was justified and was not arbitrary or capricious.
6. By letter dated October 3, 2000, Dr. Beranek wrote the Advisory Board Committee and suggested that he be returned to the Medical Staff effective January 1, 2001, with the following self-imposed conditions: (i) that Dr. Beranek obtain a chaperon to accompany him while in the Hospital, and (ii) that Dr. Beranek continue in therapy until January 1, 2003. Based on its review of the record, the Advisory Board does not find that the conditions proposed by Dr. Beranek will adequately address the concerns set forth above.

Accordingly, pursuant to Article VIII of the Medical Staff Bylaws, the Advisory Board hereby orders that Dr. Steven R. Beranek's medical staff membership and clinical privileges at the Hospital be **TERMINATED** effective as of the date of this Final Order.

**ADVISORY BOARD OF
MEDICAL CENTER ENTERPRISE**


Dr. Nicholas Barreca, President


L. Keith Granger, Secretary

Effective this 29th day of October, 2000.